

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America)

v.)

Case No. 3:20-mj-00166

STEPHEN EDWARD O'DONNELL)

Defendant(s)

CRIMINAL COMPLAINT

BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 7/26/2020 in the county of Multnomah in the
 District of Oregon, the defendant(s) violated:

*Code Section**Offense Description*

18 U.S.C. § 111(a)(1)

Assaulting a Federal Officer

This criminal complaint is based on these facts:

See Affidavit of Federal Protective Service SA Brian Desens attached hereto and incorporated by reference.

☒ Continued on the attached sheet.

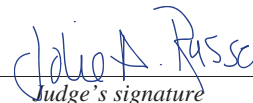
via telephone

Complainant's signature

FPS SA Brian Desens

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 telephone at 8:03 a.m./p.m. ~~p.m.~~

Date: July 27, 2020

Judge's signature
City and state: Portland, Oregon

Hon. Jolie A. Russo, U.S. Magistrate Judge

Printed name and title

I, Brian Desens, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am employed as a Special Agent (SA) with the Federal Protective Service (FPS) and have been employed by FPS since October 2017. I have participated in several investigations relating to the protection of federal facilities and personnel. I am currently assigned to the FPS Headquarters Rapid Protection Force (RPF). Prior to being a Special Agent with FPS, I was employed as a Uniformed Inspector with the FPS since 2013. I graduated from the Federal Law Enforcement Training Academy (FLETC) Criminal Investigator Training Program in 2018, and FLETC's Uniformed Police Training Program in 2013. I received a bachelor's degree in Law and Justice from Central Washington University in 2015. I am currently assigned to the Rapid Protection Force out of Auburn, WA, and augment the Region 10 Investigations Branch as a general crime agent.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Stephen Edward O'DONNELL. As set forth below, there is probable cause to believe that O'DONNELL committed the offense of Assaulting a Federal Officer (Felony), in violation of 18 U.S.C. § 111(a)(1).

3. The facts set forth in this affidavit are based on the following: my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, my review of

records related to this investigation, communication with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience. Because this affidavit is submitted for the limited purpose of establishing probable cause in support of the application for an arrest warrant, it does not set forth each fact that I or others have learned during this investigation.

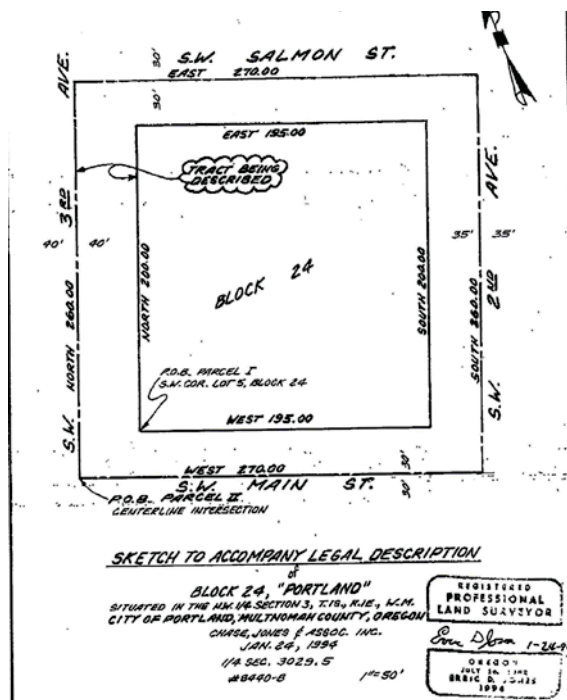
Applicable Law

4. 18 U.S.C. § 111(a)(1) makes it an offense to forcibly assault, resist, oppose, impede, intimidate, or interfere with any person designated in 18 U.S.C. § 1114 while engaged in or on account of the performance of official duties. Persons designated in § 1114 include any officer or employee of the United States or of any agency in any branch of the United States government while such officer or employee is engaged in or on account of the performance of official duties, and any person assisting such an officer or employee in the performance of official duties. Under § 111(a), simple assault is a misdemeanor, but where the assaultive acts involve physical contact with the victim, the offense is a felony punishable by imprisonment up to 8 years.

Statement of Probable Cause

5. Since on or about May 26, 2020, protesters have gathered in Portland public areas to protest. Three of these public areas are Lownsdale Square, Chapman Square and Terry Schrunk Plaza. The Portland Justice Center, housing Portland Police Bureau's (PPB) Central Precinct and the Multnomah County Detention Center (MCDC), border these parks, as does the

Mark O. Hatfield United States Federal Courthouse¹. The United States of America owns the entire city block (Block #24) occupied by the courthouse building depicted below:



Daily protests have regularly been followed by nightly criminal activity in the form of vandalism, destruction of property, looting, arson, and assault. The Mark O. Hatfield Courthouse has experienced significant damage to the façade, glass, and building fixtures during the weeks following this incident. Additionally, mounted building security cameras and access control devices have been vandalized or stolen. The most recent repair estimate for the damage at the Mark O. Hatfield Courthouse is in excess of \$50,000. Other federal properties in the area routinely being vandalized include the historic Pioneer Federal Courthouse, the Gus Solomon Courthouse, and the Edith Green Wendall Wyatt Federal Office Building. FPS law enforcement

¹ As part of my duties, I am familiar with the property boundaries for federal facilities in the Portland Oregon area. The federal government owns the entire city block occupied by the Mark O. Federal Courthouse. Easements have been granted for the sidewalks surrounding the facility. The property boundary extends past the sidewalks and into the streets surrounding the courthouse.

officers, U.S. Marshal Service Deputies and other federal law enforcement officers working in the protection of the Mark O. Hatfield Courthouse have been subjected to assault, threats, aerial fireworks including mortars, high intensity lasers targeting officer's eyes, thrown rocks, bottles and balloons filled with paint, and vulgar language from demonstrators while performing their duties.

6. On July 26, 2020, at approximately 01:02 a.m., protesters attempted to breach into the Mark O. Hatfield Federal United States Courthouse (USCH) by damaging and removing the protective fencing around the west entrances of the USCH. A section of the fence was pushed over and protestors started to make their way onto federal property, U.S. Customs and Border Protection (CBP), U.S. Marshals Service (USMS), and FPS tactical teams deployed outside to prevent further breaches and property damage on the property.

7. At approximately 01:30 a.m., ODONNELL was taken into custody by CBP on an allegation of violation of 18 U.S.C. § 111(a)(1) and taken to the USCH for processing.

8. At approximately 01:15 a.m. to 01:20 a.m. CBP agents were moving through the park (Lownsdale Square) to push back protestors after the breach of the fence at the USCH. While pushing through the park CBP Agent 1 (victim) observed ODONNELL by the monument who was shining a flashlight at CBP Agent 1. CBP Agent 1 did not see any other protestors in the immediate area. The agent announced himself as a "Border Patrol Agent" and gave verbal commands to have ODONNELL show his hands. CBP Agent 1 saw the beam of the flashlight in ODONNELL's hand move down and observed ODONNELL throw an object in the agent's direction from approximately 10 feet. The object struck CBP Agent 1 in the face. The object was hard, but the agent was not sure exactly what the object was. CBP Agent 1 was wearing his

gasmask at the time of the attack and was not injured. After the object struck CBP Agent 1, he moved in on ODONNELL and arrested him. CBP Agent 1 escorted ODONNELL to the USCH and transferred him to other officers for further processing.

9. Law enforcement attempted to interview ODONNELL in the US Marshals' interview rooms at the USCH. I read ODONNELL his rights from an FPS Miranda Statement of Rights form. ODONNELL stated he understood his rights. I asked if he was willing to waive his rights and speak with me. ODONNELL declined to waive his rights and I ended the interview with ODONNELL.

Conclusion

10. Based on the foregoing, I have probable cause to believe, and I do believe, that Stephen Edward ODONNELL committed a violation of 18 U.S.C. § 111(a), and in so doing made physical contact with a federal officer using a hard object from approximately 10 feet.

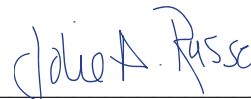
11. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Natalie Wight, who advised that in her opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

/s/ Sworn to by telephone

Brian Desens

Special Agent, Federal Protective Service

Sworn to by telephone or other reliable means at 8:03 a.m./~~p~~m. in accordance with
Fed. R. Crim. P. 4.1 this 27 day of July 2020.



HONORABLE JOLIE A. RUSSO
United States Magistrate Judge